IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

Con.Case(C).No. 822 of 2007(S)

AGAINST THE JUDGEMENT IN OP.21296/2000 Dated 07/08/2003
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PETITIONER/3rd PARTY

GEORGE JOHN, 230, MATHER NAGAR,
KOCHI - 682 033.

BY ADV. SRI.MOHAN PULIKKAL
SMT.MANJU RAJAN
SMT.A.AMRUTHA VIDYADHARAN

RESPONDENTS: RESPONDENTS 1 TO 3
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1. MRS.LIZY JACOB,
AGE & FATHER'S NAME NOT KNOWN TO THE PETITIONER
CHIEF SECRETARY, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM.

2. RAMAN SRIVASTHAVA,
AGE & FATHER'S NAME NOT KNOWN TO THE PETITIONER,
DIRECTOR GENERAL OF POLICE,
POLICE HEADQUARTERS, THIRUVANANTHAPURAM.

3. JIJI THOMSON,
AGE & FATHER'S NAME NOT KNOWN TO THE PETITIONER
SECRETARY, TRANSPORT DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM.

BY SR. G.P. SRI M.R.SABU

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

Contempt Case (C) No.822 of 2007

Dated, this the 20th day of June, 2007

JUDGMENT

H.L. DATTU, CJ.

Alleging that the respondents have not complied with the orders and directions issued by this court in O.P.No.21296/2000 dt. 7.8.2003, the petitioners in the original petition are before us in this contempt proceedings.

2. This court, while disposing of the original petition, was pleased to observe as under:

> "16. The provision of the Act and the Rule being clear, the State is under an obligation to ensure its compliance. The defaulters are liable to be punished. Mr. Roy Chacko has assured us that the provisions shall be enforced. As at present, the rule provides for no exception. Thus, it is directed that the respondents shall enforce the provision immediately. Instructions shall be issued. The persons concerned shall be given a reasonable time to arrange for protective headgear, say four weeks. Thereafter, the defaulters shall be dealt with according to law."

3. The learned Government Pleader appearing for the respondent has also produced before us the letter written by the Principal Secretary to the Government to the learned Advovcate General, Ernakulam. The letter reads as under:

> "Refer to the Fax Message No.822/07/CC/(c) dated 8.6.2007 from Sri M.R.Sabu, Senior Government Pleader, regarding WP(C) filed by George John, 230, Mather Nagar, Kochi, complaining about non-implementation of direction

contained in the judgment dated 7.8.2003 in W.P.(C) No.21296/2000.

2. In this regard I write to inform that the State Government, on receipt of the judgment mentioned above, had issued direction to the DGP and the Transport Commissioner, for strict enforcement of section 129 of the MV Act and Rule 347 of the KMVR.

3. A press release was issued by the Transport Commissioner for the information of the general public, especially the two wheeler riders, stating that the provisions of section 129 of MV Act 1988 would be enforced with effect from 5.9.2003. Subsequently, all the Deputy Transport Commissioners, Regional transport Officers and Joint R.T.Os were directed to enforce the said provision strictly with effect from 5.9.2003 duly giving a period of about 4 weeks time to the two wheeler users to acquire protective head gear (helmet).

4. When enforcement of the provisions was initiated, there was resistance from the two-wheeler users, especially the Two -wheeler Users Association; there were protest and agitations. Representations were received requesting to dispense with enforcement of the said provision.

5. While enforcement (of requirement of protective head gear) continued, a small concession in the face of requests from the general public was extended: the Pillion Riders alone were exempted from wearing protective head gear, by invoking the second proviso to section 129 of the MV Act, as per G.O.(P) No.46/03/Tran dated 13.10.03 (SRO No.942/03).

6. Enforcement of compulsory wearing of protective headgear continued scrupulously. But, there has been stiff resistance on the part of two-wheeler riders Associations, and also from other organizations. However, all the enforcement officers have again been alerted to enforce the provisions scrupulously.

7. In view of the position as brought out above, this matter, should it come up for hearing, may please be defended, on behalf of the State Government."

In view of the effective steps that are being taken by the respondents for implementing the orders and directions issued by this court, in our opinion, for the present we need not have to entertain any contempt proceedings against the respondent. Accordingly, the proceedings are dropped. Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

mt/